

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 02-0145P**

**Adjusted Gross Income Tax**

**For the Year ended December 31, 2000**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**II. Tax Administration – Interest**

**Authority:** IC 6-8.1-10.1

Taxpayer protests the interest assessed.

**STATEMENT OF FACTS**

Taxpayer filed its return late and was assessed a penalty. Taxpayer's tax liability was \$13,880.00 that it remitted after the due date. Taxpayer filed an extension; however, an extension to file is not an extension for payment.

Taxpayer's representative filed a penalty protest dated February 22, 2002 indicating it paid all Indiana tax timely, on a consolidated basis, for the year 2000. Taxpayer's representative states that prior to tax year 2000, all income derived from Indiana sources was included in another wholly owned subsidiary of the taxpayer. As a result of its mid-year restructuring, the exact income was not determined until early 2001.

**I. Tax Administration – Penalty**

**DISCUSSION**

Taxpayer protests the penalty assessed and states that it paid no estimated taxes for the entity at

issues. Taxpayer states that within the consolidated group, however, Indiana taxes were overpaid at the time of the original due date of the returns.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

Taxpayer did not attempt to remit tax timely for the corporation at issue. The overpayment of a related corporation cannot be carried over to the taxpayer at issue. Taxpayer failed to remit its tax timely and has not provided reasonable cause to allow the department to waive the penalty.

### **FINDING**

Taxpayer's protest is denied.

## **II. Tax Administration – Interest**

### **DISCUSSION**

Taxpayer protests the interest assessed.

The Department has no authority to waive interest.

### **FINDING**

Taxpayer's protest is denied.